

State of California



Fair Political Practices Commission

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Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-3901 322-4441

May 11, 1984

Gordon Duffy
Secretary of Environmental
Affairs
1102 Q Street
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-84-084

Dear Mr. Duffy:

Thank you for requesting advice from this office concerning your financial disclosure obligations under the Political Reform Act.^{1/} The following advice is provided pursuant to Section 83114(b).

QUESTION

Whether the payment by Chevron of certain travel expenses incurred in connection with your trip to the North Sea constitutes "income" for the purposes of disclosure and disqualification.

CONCLUSION

The payment by Chevron is not "income" under the Political Reform Act.

DISCUSSION

My understanding of the situation is as follows. You took a trip in August 1983 to the North Sea to study offshore oil drilling operations and techniques. As Outer Continental Shelf

^{1/} The Act is contained in Sections 81000-91014 of the Government Code. All statutory references are to the Government Code.

Gordon Duffy
May 11, 1984
Page 2

Policy Coordinator for the State of California, you have considerable interest in offshore drilling operations since increased drilling off the California coast has been proposed. When you made the trip, it was your understanding that your travel expenses were being paid by the Fluor Foundation and the California Foundation on the Environment and the Economy, and you reported them as the source of the payments for your travel on your 1983 Statement of Economic Interests.

On March 29 and 30, 1984, you received information that part of your trip may have been paid for by Chevron U.S.A., Inc., a subsidiary of Standard Oil. You wrote to Chevron for more information, and Chevron indicated that they paid a total of \$981.74 toward your trip. Of this sum, \$619.80 was for transportation to their North Sea drilling platform, and \$361.94 was for food and lodging during the trip. After you received this information, you sent a check for \$361.94 to Chevron reimbursing them for the payments for food and lodging.

Your letter raised two related issues. First, you asked whether you received a "gift" from Chevron as to the payment of \$361.94 since you reimbursed Chevron within 30 days of learning that Chevron was the true source of the payment. Section 82028 defines "gift" to exclude "[g]ifts which are not used and which, within 30 days after receipt, are returned to the donor...." Section 82028(b)(2). In your case, since you did not know or have reason to know that Chevron had paid part of your expenses until March 29 or 30, 1984, the 30-day period did not commence until then, and your payment to Chevron on April 6, 1984, constituted a timely "return" of the gift. Accordingly, as to this portion of Chevron's payment, you have not received a reportable gift, nor do you have disqualification obligations.

Your second issue concerns the balance of Chevron's payment, the \$619.80, which was paid for your transportation to the oil drilling platform itself. My understanding is that the platform belongs to Chevron, and the only means of transportation to the platform is on Chevron-owned transport. You ask whether Chevron's payment for your transportation to the platform constitutes a gift with the attendant disclosure and disqualification obligations.

Another exception to the definition of gift in Section 82028 states:

Gordon Duffy
May 11, 1984
Page 3

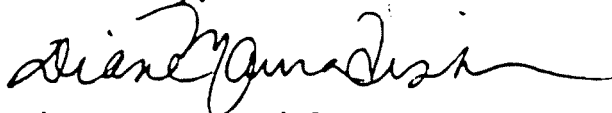
(1) Informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material"....

Section 82028(b)(1).

The Commission has interpreted this exception for informational materials to include certain tours given to public officials. Opinion requested by John Stephen Spellman, 1 FPPC Opinions 16 (No. 75-026, May 1, 1975) (copy enclosed). It appears that your tour of the offshore drilling platform is the kind of tour that the Commission in Spellman was placing in the "informational material" exception. The statute does specifically provide that payment for travel does not fall into this exception, but it is reasonable to conclude that travel expenses are part of the tour if the travel is necessary to the tour and it is the only means of transportation to the tour site. Since this appears to be the case here the payment by Chevron for your travel expenses to the drilling platform is not a reportable gift, nor could it form the basis for disqualification under Sections 87100-87103.

If I can be of further assistance, please feel free to contact me.

Sincerely,



Diane Maura Fishburn
Staff Counsel
Legal Division

DMF:plh
Enclosure



F P P C State of California

SACRAMENTO

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GORDON W. DUFFY
Secretary of
Environmental Affairs

April 6, 1984

Barbara Milman, Chief
Legal Division
Fair Political Practices Commission
1100 K Street
Sacramento, CA 95814

Dear Ms. Milman:

In accordance with your suggestion to Air Resources Board (ARB) General Counsel David Nawi, I am writing to provide a full description of expenses paid for me in connection with a 1983 trip I took to the North Sea, and to confirm my understanding of the consequences of this situation.

In August 1983 I took a trip to the North Sea to study offshore oil drilling operations and techniques. As Outer Continental Shelf Policy Coordinator for the State of California, I have considerable interest in the North Sea operations in light of proposed increased drilling off the California coast. When I made the trip, I was informed that my expenses were paid by the Fluor Foundation and the California Foundation on the Environment and the Economy. I have reported the financial contribution by these entities on my most recent Statement of Economic Interests.

On March 29 and 30, 1984, I received for the first time information indicating that part of my trip may have been paid for by Chevron U.S.A. Inc., a subsidiary of Standard Oil of California. On March 30 I wrote to Chevron asking for information regarding the extent to which Chevron financed my trip. In a reply dated April 3, Chevron has indicated that they paid expenses for me of \$981.74. Of this sum, Chevron states that \$619.80 was for the only available transportation to the North Sea platform, and that the remainder of \$361.94 was for food and lodging.

I understand that under the Political Reform Act as interpreted by the Fair Political Practices Commission the transportation expense paid by Chevron is not considered a gift or income to me since it was for the only available transportation to

April 6, 1984

their platform. I am therefore returning to Chevron the remainder of the expenses they paid for the trip. Copies of my correspondence with Chevron are enclosed.

I am informed by legal counsel that under the facts outlined above, I will not have to report any income or gift from Chevron, because I have returned to Chevron the full amount of any gift or income from them within 30 days of learning of their gift to me. I am also informed that under the circumstances I will not have to disqualify myself from any actions or decisions which might affect Chevron, since I have received no reportable income from Chevron.

I would appreciate your confirming the understanding of my responsibilities as set forth above and your advising me of whether there are any additional requirements applicable to this situation.

If you require any further information regarding this matter, please contact the ARB's General Counsel, David Nawi, at (916) 322-2884. Thank you for your assistance.

Sincerely,



Gordon Ducey
Secretary of Environmental
Affairs

Attachments